

DECLARATION OF TIMOTHY CARL AIRES

I, TIMOTHY CARL AIRES, hereby declare and state as follows:

1. The following facts are of my own personal, first-hand knowledge, and if called and sworn to testify thereto, I could and would competently do so.

2. I am an attorney at law, duly licensed to practice before all courts of the State of California as well as this Court and am a member of the Aires Law Firm, counsel for Plaintiff and Counterdefendant AT&T Corp.

3. By written order entered August 14, 2008, this Court has granted the motion of Plaintiff and Counterdefendant AT&T Corp. for summary judgment. (Docket No. 130.) This Court found that Plaintiff AT&T Corp. is entitled to judgment on the Complaint of Plaintiff AT&T Corp. (Docket No. 1) against Defendant Dataway Inc. dba Dataway Designs in the sum of \$11,534.67, together with prejudgment interest of \$5.69 per day from September 25, 2006, and Counterclaimant Dataway Inc. dba Dataway Designs is entitled to nothing as a matter of law on the Counterclaim of Counterclaimant Dataway Inc. dba Dataway Designs (Docket No. 31). Notwithstanding the intent evidenced by the order granting summary judgment, the Judgment entered by this Court is silent as to the monetary relief granted to Plaintiff AT&T Corp. on its Complaint (Docket No. 131).

4. In order to correct the obvious omission from the judgment on monetary relief, the Judgment should be corrected or amended to state: (1) Plaintiff AT&T Corp. is entitled to judgment on the Complaint of Plaintiff AT&T Corp. against Defendant Dataway Inc. dba Dataway Designs in the sum of \$11,534.67, together with prejudgment interest of \$3,920.41 (based upon \$5.69 per day from September 25, 2006 through August 14, 2008 [689 days]); (2) Counterclaimant Dataway Inc. dba Dataway Designs is entitled to nothing on the

1 Counterclaim of Counterclaimant Dataway Inc. dba Dataway Designs; and (3) Costs and  
2 attorney's fees, if any, shall be claimed and contested in accordance with F.R.C.P., Rule  
3 54(d) and Local Rule 54.

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5 5. On August 14, 2008, I spoke by telephone with Anne-Leith Matlock, Esq.,  
6 counsel to Dataway Inc., regarding the fact that the Judgment entered by this Court on  
7 August 14, 2008 is silent as to the monetary relief granted to Plaintiff AT&T Corp. on its  
8 Complaint. I explained to Attorney Matlock that an amended judgment would be necessary  
9 to correct the record. I informed Attorney Matlock that I had lodged a proposed amended  
10 judgment. I asked if she opposed the requested relief. Attorney Matlock told me that she  
11 would wait and see what the Court would do about the lodged (proposed) amended judgment.  
12 She told me that we would speak on Monday. Having not heard from Attorney Matlock by  
13 4:00 p.m. PDT on August 18, 2008, I called her office. She was not available to take my call.  
14 Given the short time frame for the timely filing of a Rule 59(e) motion, I am compelled to  
15 proceed with the filing of this motion in the absence of Attorney Matlock's consent.

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17 I declare under penalty of perjury that the foregoing is true and correct and that this  
18 declaration was executed on this 18<sup>th</sup> day of August, 2008, in Newport Beach, California.

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21 TIMOTHY CARL AIRES  
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